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Notice of Allowability	Application No.	Applicant(s)	
	09/936,344	BUWALDA ET AL.	
	Examiner	Art Unit	
	N. Bhat	1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 11-22-2004 and telephonic communication of 12/15/2004 and 12/20/2004.
2. ☒ The allowed claim(s) is/are 1,3-5, 8-9 and 11-17 re-numbered as 11,2,4-6,8,9,11,3,7,10 and 12.
3. ☒ The drawings filed on 19 July 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Susan Sipos on 12-20-2004.

In the Claims:

The application has been amended as follows:

Please replace the claims with this new listing of claims.

1. (Currently Amended) A method for providing an improved foodstuff with a short or smooth texture and/or shiny appearance after heat and/or shear treatment comprising:

adding to the ingredients of a foodstuff a non-cereal cross-linked starch, wherein said starch has a capacity to disintegrate into discrete particles after processing, wherein said starch has an amylopectin:amylose ratio of at least 90:10, 95:5, or 99:1, and wherein said starch is cross-linked with at least 0.003% of adipic anhydride, with at least 0.01% of sodium trimetaphosphate, or with at least 0.00010% of phosphorous oxychloride, and

processing said foodstuff containing said starch, wherein processing comprises heat and/or shear treatment, wherein said improved foodstuff is provided.

2. (Cancelled)

3. (Previously Presented) A method according to claim 1, wherein said starch is degraded.

4. (Cancelled)

5. (Currently Amended) A composition comprising a non-cereal cross-linked starch, wherein said starch provides a foodstuff with a short or smooth texture and/or shiny appearance after heat and/or shear treatment, wherein said starch has an amylopectin:amylose ratio of at least 90:10, 95:5, or 99:1, and wherein said starch is cross-linked with at least 0.003% of adipic anhydride, with at least 0.01% of sodium trimetaphosphate, or with at least 0.00010% of phosphorous oxychloride, and wherein said starch has a capacity to disintegrate into discrete particles after processing.

6. (Cancelled)

7. (Cancelled)

8. (Previously Presented) A composition according to claim 5, wherein said starch is derived from a genetically modified potato plant mutant or from an amylose-free potato plant mutant.

9. (Previously Presented) A composition according to claim 5, wherein said starch has been subjected to stabilisation.

10. (Cancelled)

11. (Currently Amended) A foodstuff having a short or smooth texture and/or shiny appearance after heat and/or shear treatment comprising a cross-linked starch which has a capacity to disintegrate into discrete particles after processing wherein said starch has an amylopectin:amylose ratio of at least 90:10, 95:5, or 99:1, and wherein said starch is cross-linked with at least 0.003% of adipic anhydride, with at least 0.01% of sodium trimetaphosphate, or with at least 0.00010% of phosphorous oxychloride.

12. (Previously Presented) A foodstuff according to claim 11 wherein the discrete particles are derived from a starch granule.

13. (Currently Amended) A foodstuff having a short or smooth texture and/or shiny appearance after heat and/or shear treatment produced by a method comprising:
adding to a foodstuff a cross-linked starch, wherein said starch has a capacity to disintegrate into discrete particles after heat and/or shear treatment, wherein said starch has an amylopectin:amylose ratio of at least 90:10, 95:5, or 99:1, and
wherein said starch is cross-linked with at least 0.003% of adipic anhydride, with at least 0.01% of sodium trimetaphosphate, or with at least 0.00010% of phosphorous oxychloride, and
subjecting the foodstuff to heat and/or shear treatment.

14. (Previously Presented) A method according to Claim 1 wherein said starch is cross-linked with 0.003% to 0.024% of adipic anhydride, with 0.01% to 0.25% of sodium trimetaphosphate, or with 0.00010% to 0.01% of phosphorous oxychloride.

15. (Previously Presented) A composition according to Claim 5 wherein said starch is cross-linked with 0.003% to 0.024% of adipic anhydride, with 0.01% to 0.25% of sodium trimetaphosphate, or with 0.00010% to 0.01% of phosphorous oxychloride.

16. (Previously Presented) A foodstuff according to Claim 11 wherein said starch is cross-linked with 0.003% to 0.024% of adipic anhydride, with 0.01% to 0.25% of sodium trimetaphosphate, or with 0.00010% to 0.01% of phosphorous oxychloride.

17. (Previously Presented) A method according to Claim 13 wherein said starch is cross-linked with 0.003% to 0.024% of adipic anhydride, with 0.01% to 0.25% of sodium trimetaphosphate, or with 0.00010% to 0.01% of phosphorous oxychloride.

2. The following is an examiner's statement of reasons for allowance:

The prior art fails to teach and/or suggest a method for providing an improved foods stuff or a composition comprising a non-cereal cross-linked starch, wherein the starch provides a foodstuff with a short or smooth texture and/or shiny appearance after heat and/or shear treatment, wherein the starch has an amylopectin:amylose ratio of at least 90:10, 95:5 or 99:1, and wherein the starch is cross-linked with at least 0.003% of adipic anhydride, with at least 0.01% of sodium trimetaphosphate, or with at least 0.00010% of phosphorous oxychloride, and wherein the starch has a capacity to disintegrate into discrete particles after processing.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Bhat whose telephone number is 571-272-1397. The examiner can normally be reached on Monday-Friday, 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



N. Bhat
Primary Examiner
Art Unit 1764